

PROHIBITION AGAINST REQUIRING EMPLOYEES TO PAY FOR
MEDICAL AND OTHER EXAMINATIONS
R.S. 23:897

Section 897. Medical and other examinations, fingerprinting, requiring employee to pay for, prohibited; enforcement of provisions; civil and criminal penalties

A. Except as provided in Subsection K of this Section and in R.S. 23:634(B), it is unlawful for any public or private employer to require any employee or applicant for employment to pay or to in any manner pass on to the applicant or to withhold from an employee's pay the cost of fingerprinting, a medical examination, or a drug test, or the cost of furnishing any records available to the employer or required by the employer as a condition of employment.

B. Whoever violates this Section shall be fined not more than one hundred dollars or imprisoned for not more than ninety days, or both.

C. (1) Any person violating the provisions of this Section shall be subject, in addition to the criminal penalty provided in Subsection B of this Section, to a civil penalty of up to five hundred dollars.

(2) Reasonable litigation expenses may be awarded to the prevailing party of the adjudicatory hearing. "Reasonable litigation expenses" means any expenses, not exceeding seven thousand five hundred dollars, reasonably incurred in prosecuting, opposing, or contesting an agency action, including but not limited to attorney fees, stenographer fees, investigative fees and expenses, witness fees and expenses, and administrative costs.

D. For the purpose of imposing civil penalties provided in Subsection C of this Section, each incident where an employee or applicant for employment was required to bear the cost of fingerprinting, a medical examination, or a drug test, or the cost of furnishing records available to the employer and required by the employer shall be considered to be a separate offense.

E. Civil penalties for violation of this Section may be imposed by the office of labor only by a ruling of the secretary pursuant to an adjudicatory hearing held in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

F. The secretary of the Department of Labor may institute civil proceedings in the Nineteenth Judicial District Court to enforce the department's rulings. The court shall award to the prevailing party reasonable attorney fees and judicial interest on such civil penalties from the date of judgment until paid and all court costs.

G. The secretary may institute civil proceedings in the Nineteenth Judicial District Court seeking injunctive relief to restrain and prevent violations of the provisions of this Section or of the rules and regulations adopted under the provisions of this Section. The court shall award reasonable attorney fees and court costs to the prevailing party.

H. In addition to the imposition and collection of civil penalties provided in Subsection C of this Section, the secretary is authorized to and shall collect from each employer for reimbursement to each employee or applicant for employment any amount of money charged to any employee or applicant for employment in violation of Subsection A of this Section.

I. The secretary is empowered to enforce the civil provisions of this Section and to adopt and promulgate such reasonable rules and regulations and to conduct such investigations as the secretary deems necessary to ensure enforcement of this Section.

J. Nothing in this Section shall be interpreted to prevent the collection of fees by a physician or other third party providing services to the employee or employer.

K. Notwithstanding any other provision of law, an employer shall have a right of reimbursement from an employee or an applicant who becomes an employee, provided the employee is compensated at a rate equivalent to not less than one dollar above the existing federal minimum wage and is not a part-time or seasonal employee as defined in R.S. 23:1021, for the costs of such employee's or applicant's pre-employment medical examination or drug test if the employee terminates the employment relationship sooner than ninety working days after his first day of work or never reports to work, unless such termination is attributable to a substantial change made to the employment by the employer as applied in Louisiana Employment Security Law.

L. Out of the civil penalties collected for violations of this Chapter, expenses incurred in enforcing the provisions of this Chapter may be paid by the department.

CONTRACT FORFEITING WAGES ON DISCHARGE UNLAWFUL R.S. 23:634

Section 634.

A. No person, acting either for himself or as agent or otherwise, shall require any of his employees to sign contracts by which the employees shall forfeit their wages if discharged before the contract is completed or if the employees resign their employment before the contract is completed; but in all such cases the employees shall be entitled to the wages actually earned up to the time of their discharge or resignation.

B. Nothing in subsection A of this Section or in R.S. 23:631(A)(2) shall prohibit an employer from requiring an applicant for employment who becomes an employee or an employee, provided the employee is compensated at a rate equivalent to not less than one dollar above the existing federal minimum wage and is not a part-time or seasonal employee as defined in R.S. 23:1021, to sign a contract providing that the costs of such individual's pre-employment medical examination or drug test may be withheld from his wages if he resigns within ninety working days from his first day of work, and, upon resignation, withholding such costs, unless such resignation is attributable to a substantial change made to the employment by the employer as applied in the Louisiana Employment Security Law.